



General Assembly

February Session, 2006

**Raised Bill No. 415**

LCO No. 2164

\*02164\_\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

**AN ACT CONCERNING ENVIRONMENTAL REMEDIATION  
ALLOCATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-452 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2006*):

3 (a) Any person [, firm, corporation] or municipality which contains  
4 or removes or otherwise mitigates the effects of oil or petroleum or  
5 chemical liquids or solid, liquid or gaseous products or hazardous  
6 wastes or hazardous substances resulting from any discharge, spillage,  
7 uncontrolled loss, seepage or filtration of such substance or material or  
8 waste shall be entitled to reimbursement or recovery from any person  
9 [, firm or corporation] for the reasonable costs or to be expended for  
10 such containment, removal, or mitigation, including the reasonable  
11 costs of investigation and monitoring, if such oil or petroleum or  
12 chemical liquids or solid, liquid or gaseous products or hazardous  
13 wastes or hazardous substances pollution or contamination or other  
14 emergency [resulted from the negligence or other actions of such  
15 person, firm or corporation] (1) was directly or indirectly caused by  
16 such person, or (2) such person, regardless of fault, is one of the

17 following: (A) The owner or operator of a facility, (B) any person who,  
18 at the time of disposal of any hazardous substance, owned or operated  
19 any facility at which such hazardous substances were disposed of, (C)  
20 any person who, by contract, agreement or otherwise, arranged for  
21 disposal or treatment, or arranged with a transporter for transport for  
22 disposal or treatment, of hazardous substances owned or possessed by  
23 such person, by any other party or entity at any facility owned or  
24 operated by another party or entity and containing such hazardous  
25 substances, and (D) any person who accepts or accepted any  
26 hazardous substances for transport to disposal or treatment facilities or  
27 sites selected by such person, from which there is any discharge,  
28 spillage, uncontrolled loss, seepage or filtration of hazardous  
29 substances, for the reasonable costs expended or to be expended for  
30 such containment, removal or mitigation, including the reasonable  
31 costs of investigation and monitoring. When such pollution or  
32 contamination or emergency results from the joint [negligence or  
33 other] actions or omissions of two or more persons, [firms or  
34 corporations,] each shall be liable to the others for a pro rata share of  
35 the costs of containing, and removing or otherwise mitigating the  
36 effects of the same and for all damage caused thereby. For purposes of  
37 this section, "hazardous substances" has the same meaning as provided  
38 in section 22a-134 and "owner and operator" and "facility" have the  
39 same meaning as provided in 42 USC 9601.

40 (b) No person [firm or corporation which] who renders assistance  
41 or advice in mitigating or attempting to mitigate the effects of an actual  
42 or threatened discharge of oil or petroleum or chemical liquids or  
43 solid, liquid or gaseous products or hazardous [materials] wastes or  
44 hazardous substances, other than a discharge of oil as defined in  
45 section 22a-457b, to the surface waters of the state, or [which] who  
46 assists in preventing, cleaning-up or disposing of any such discharge  
47 shall be held liable, notwithstanding any other provision of law, for  
48 civil damages as a result of any act or omission by him in rendering  
49 such assistance or advice, except acts or omissions amounting to gross  
50 negligence or wilful or wanton misconduct, unless he is compensated

51 for such assistance or advice for more than actual expenses. For the  
52 purpose of this subsection, "discharge" means spillage, uncontrolled  
53 loss, seepage or filtration, [and "hazardous materials" means any  
54 material or substance designated as such by any state or federal law or  
55 regulation.]

56 (c) The immunity provided in this section shall not apply to (1) any  
57 person, firm or corporation responsible for such discharge, or under a  
58 duty to mitigate the effects of such discharge, (2) any agency or  
59 instrumentality of such person, firm or corporation, or (3) negligence  
60 in the operation of a motor vehicle.

61 (d) An action for reimbursement or recovery of the reasonable costs  
62 expended for containment, removal or mitigation, including the  
63 reasonable costs of investigation and monitoring shall be commenced  
64 not later than six years after initiation of the physical on-site  
65 construction of the remedial action taken to contain, remove or  
66 mitigate the effects of oil or petroleum or chemical liquids or solid,  
67 liquid or gaseous products or hazardous wastes or hazardous  
68 substances, or three years after the completion of the containment,  
69 removal or mitigation activities, whichever is later.

70 (e) In any action brought pursuant to this section, the Superior  
71 Court may issue an order granting the reimbursement or recovery of  
72 reasonable costs to be incurred in the future.

73 (f) A person shall not be liable under this section where the person  
74 can establish by a preponderance of the evidence that the discharge,  
75 spillage, uncontrolled loss, seepage or filtration of a hazardous  
76 substance and the resulting damages were caused solely by (1) an act  
77 of God, (2) an act of war, (3) an act or omission of a third party other  
78 than an employee or agent of the person, other than one whose act or  
79 omission occurs in connection with a contractual relationship, existing  
80 directly or indirectly, with the person, except where the sole  
81 contractual arrangement arises from a published tariff and acceptance  
82 for carriage by a common carrier by rail, if the person establishes by a

83 preponderance of the evidence that such person (A) exercised due care  
84 with respect to the hazardous substance taking into consideration the  
85 characteristics of such hazardous substance, in light of all relevant facts  
86 and circumstances, and (B) took precautions against foreseeable acts or  
87 omissions of any such third party and the consequences that could  
88 foreseeably result from such acts or omissions, or (4) any combination of  
89 the foregoing.

90 (g) This section shall apply to any action brought before, on or after  
91 July 1, 2006, for the reimbursement or recovery of the reasonable costs  
92 for containment, removal or mitigation, including the reasonable costs  
93 of investigation and monitoring, except that it shall not apply to any  
94 action if such action has become final, and is no longer subject to  
95 appeal, prior to July 1, 2006.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2006	22a-452

**Statement of Purpose:**

To clarify and expand the circumstances that a person who is conducting remediation of a spill of hazardous substances can seek reimbursement for the costs of the remediation from other responsible parties.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*